

MP-8
JL

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: FRED OSWALD
Serial No.: 10/083,716
Filed: February 25, 2002
For: VIBRATOR

Group No.: 1723
Examiner: --

Box Missing Part
Assistant Commissioner for Patents
Washington, D.C. 20231

COMPLETION OF FILING REQUIREMENTS
-- NONPROVISIONAL APPLICATION

(check and complete this item, if applicable)

- I.** This replies to the Notice to File Missing Parts of Application (PTO-1533) or Notice of Informal Application or Notice to file corrected applications papers mailed March 25, 2002.

NOTE: If these papers are filed before the office letter issues, adequate identification of the original papers should be made, e.g., in addition to the name of the inventor and title of invention, the filing date based on the "Express Mail" procedure, the serial number from the return post card or the attorney's docket number added.

CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

37 C.F.R. 1.8(a)

37 C.F.R. 1.10*

- with sufficient postage as first class mail.

as "Express Mail Post Office to Address"
Mailing Label No. _____ (**mandatory**)

TRANSMISSION

- transmitted by facsimile to the Patent and Trademark Office.

Date: May 24, 2002

Signature

PETER D. GALLOWAY

(type or print name of person certifying)

***WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

A copy of the Notice is enclosed.

NOTE: *The PTO requires that a copy of Form PTO-1533 be returned with the response to the notice to file missing parts to the application.*

DECLARATION OR OATH

- II. (a) No declaration or oath was filed. Enclosed is the original declaration or oath for this application.

NOTE: *If the correct inventor or inventors are not named on filing a nonprovisional application under Section 1.53(b) without an executed oath or declaration under Section 1.63, the later submission of an executed oath or declaration under Section 1.63 during the pendency of the application will act to correct the earlier identification of inventorship. 37 C.F.R. Section 1.48(f)(1).*

OR

- (b) The declaration or oath that was filed was determined to be defective. A new original oath or declaration is attached.

NOTE: *For surcharge fee for filing declaration after filing date complete item VI(3) below.*

NOTE: *"The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. Section 1.63:*

- (A) application number (consisting of the series code and the serial number, e.g., 08/123,456);
 - (B) serial number and filing date;
 - (C) attorney docket number which was on the specification as filed;
 - (D) title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or
 - (E) title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration.
- M.P.E.P. Section 601.01(a), 7th ed.*

NOTE: *Another minimum found acceptable in the declaration is the filing date (i.e., date of express mail) and the express mail number, useful where the serial number is not yet known. But note the practice where the express mail deposit is a Saturday, Sunday or holiday within the District of Columbia. 37 C.F.R. Section 1.10(c).*

(complete as applicable)

Attached is a

- (c) Statement by a registered attorney that the application filed in the PTO is the application that the inventor executed by signing the declaration.
- (d) Statement that the "attached" specification is a copy of the specification and any amendments thereto that were filed in the PTO to obtain the filing date.
- (e) Statement that substitute specification contains no new matter.
- (f) Preliminary Amendment
- (g) Transmittal of Formal Drawing(s) Prior to Notice of Allowance
- (h) Submission of "Sequence Listing," computer readable copy, and/or amendment pertaining thereto for biotechnology invention containing nucleotide and/or amino acid sequence

AMENDMENT TO CLAIMS

III. Cancel claims _____ inclusive.

**TRANSMITTAL OF ENGLISH TRANSLATION
OF NON-ENGLISH LANGUAGE PAPERS**

IV. Submitted herewith is an English translation of the non-English language application papers as originally filed. Also submitted herewith is a statement by the translator of the accuracy of the translation. It is requested that this translation be used as the copy for examination purposes in the PTO.

NOTE: For fee processing a non-English application, complete item VI(5) below.

NOTE: A non-English oath or declaration in the form provided or approved by the PTO need not be translated. 37 C.F.R. Section 1.69(b).

SMALL ENTITY STATUS

V. A statement that this filing is by a small entity

(check and complete applicable items)

is attached.

A separate refund request accompanies this paper.

was filed on _____ (original).

COMPLETION FEES

VI.

WARNING: Failure to submit the surcharge fees where required will cause the application to become abandoned. 37 C.F.R. Section 1.53.

NOTE: For effect on fees of failure to establish status, or change status, as a small entity, see 37 C.F.R. Section 1.28(a).

1. Filing fee

<input checked="" type="checkbox"/> original patent application (37 C.F.R. Section 1.16(a)--\$740.00; small entity--\$370)	\$ <u>370.00</u>
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<input type="checkbox"/> design application (37 C.F.R. Section 1.16(f)--\$330; small entity--\$165)	\$ _____
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2. Fees for claims

[X] each independent claim in excess of 3
 (37 C.F.R. Section 1.16(b)--\$84; small entity--\$42) \$ 126.00

[X] each claim in excess of 20
 (37 C.F.R. Section 1.16(c)--\$18; small entity--\$9) \$ 171.00

[] multiple dependent claim(s)
 (37 C.F.R. Section 1.16(d)--\$280; small entity--\$140) \$ _____

3. Surcharge fees

[X] late payment of filing fee and/or late filing of original declaration or oath
 (37 C.F.R. Section 1.16(e)--\$130; small entity--\$65) \$ 65.00

NOTE: Even where a facsimile declaration or oath signed by the inventor(s) was part of the originally filed papers, the surcharge fee is required.

NOTE: If both the filing fee and declaration or oath were missing from the original papers, the Office practice under 37 C.F.R. Section 1.16(e) is that only one surcharge fee need be paid whether the later filed oath or declaration and/or the filing fee are submitted afterwards at the same time or at different times.

4. [] Petition and fee for filing by other than
 all the inventors or a person not the inventor
 (37 C.F.R. Sections 1.17(i) and 1.47--\$130) \$ _____

5. [] Fee for processing an application filed with
 a specification in a non-English language
 (37 C.F.R. Sections 1.17(k) and 1.52(d)--\$130) \$ _____

6. [] Fee for processing and retention of application
 (37 C.F.R. Sections 1.21(l) and 1.53(d)--\$130) \$ _____

NOTE: 37 C.F.R. Section 1.21(l) establishes a fee for processing and retaining any application which is abandoned for failing to complete the application pursuant to 37 C.F.R. Section 1.53(f) and this, as well as, the changes to 37 C.F.R. Section 1.53 and 1.78 indicate that in order to obtain the benefit of a prior U.S. application, either the basic filing fee or the processing and retention fee of Section 1.21(l) within 1 year of notification under Section 1.53(f) must be paid.

7. [] Assignment (See "ASSIGNMENT COVER SHEET") \$ _____

Total completion fees \$ 732.00

EXTENSION OF TIME**VII.***(complete (a) or (b), as applicable)*

The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

- (a) [] Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. Section 1.17(a)(1)-(4), for the total number of months checked below:

<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
[] one month	\$ 110.00	\$ 55.00
[] two months	\$ 400.00	\$200.00
[] three months	\$ 920.00	\$460.00
[] four months	\$1,440.00	\$720.00

Fee \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

- [] An extension for _____ months has already been secured, and the fee paid therefor of \$ _____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ _____

OR

- (b) [X] Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE DUE**VIII.**

The total fee due is

Completion fee(s) \$ 732.00
 Extension fee (if any) \$ _____

Total Fee Due \$ 732.00

PAYMENT OF FEES**IX.**

[X] Enclosed is a check in the amount of \$ 732.00.

[] Charge Account No. _____ in the amount of \$ _____.
A duplicate of this request is attached.

NOTE: Fees should be itemized in such a manner that it is clear for which purpose the fees are paid. 37 C.F.R. Section 1.22(b).

Please charge Account No.12-0425 for any fees which may be due by this paper.

AUTHORIZATION TO CHARGE ADDITIONAL FEES**X.**

WARNING: Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges if extra claims are authorized.

NOTE: "Amounts of twenty-five dollars or less will not be returned unless specifically requested within a reasonable time, nor will the payer be notified of such amounts; amounts over twenty-five dollars may be returned by check or, if requested, by credit to a deposit account." 37 C.F.R. Section 1.26(a).

- [X] The Commissioner is hereby authorized to charge the following additional fees that may be required by this paper and during the pendency of this application to Account No. 12-0425
- [X] 37 C.F.R. Section 1.16(a), (f) or (g) (filing fees)
- [] 37 C.F.R. Section 1.16(b), (c) and (d) (presentation of extra claims)

NOTE: Because additional fees for excess or multiple dependent claims not paid on filing or on later presentation must only be paid or these claims canceled by amendment prior to the expiration of the time period set for response by the PTO in any notice of fee deficiency (37 C.F.R. Section 1.16(d)), it might be best not to authorize the PTO to charge additional claim fees, except possibly when dealing with amendments after final action.

- [X] 37 C.F.R. Section 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)
- [X] 37 C.F.R. Section 1.17(a)(1)-(5)(extension fees pursuant to Section 1.136(a)).
- [X] 37 C.F.R. Section 1.17 (application processing fees)

NOTE: "A written request may be submitted in an application that is an authorization to treat any concurrent or future reply, requiring a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. An authorization to charge all required fees, fees under Section 1.17, or all required extension of time fees will be treated as a constructive petition for an extension of time in any concurrent or future reply requiring a petition for an extension of time under this paragraph for its timely submission. Submission of the fee set forth in Section 1.17(a) will also be treated as a constructive petition for an extension of time in any concurrent reply requiring a petition for an extension of time under this paragraph for its timely submission." 37 C.F.R. Section 1.136(a)(3).

- [X] 37 C.F.R. Section 1.18 (issue fee at or before mailing of Notice of Allowance, pursuant to 37 C.F.R. Section 1.311(b))

NOTE: Where an authorization to charge the issue fee to a deposit account has been filed before the mailing of a Notice of Allowance, the issue fee will be automatically charged to the deposit account at the time of mailing the notice of allowance. 37 C.F.R. Section 1.311(b).

NOTE: 37 C.F.R. Section 1.28(b) requires "Notification of any change in loss of entitlement to small entity status must be filed in the application . . . prior to paying, or at the time of paying . . . issue fee . . ." From the wording of 37 C.F.R. Section 1.28(b): (a) notification of change of status must be made even if the fee is paid as "other than a small entity" and (b) no notification is required if the change is to another small entity.



SIGNATURE OF PRACTITIONER

Reg. No.: 27,885

PETER D. GALLOWAY

(type or print name of practitioner)

Tel. No.: (212) 708-1905

P.O. Address

Customer No.: 00140

c/o Ladas & Parry
26 West 61st Street
New York, N.Y. 10023

JQ

Practitioner's Docket No. U 013886-1**PATENT**

Optional Customer No. Bar Code



00140

PATENT TRADEMARK OFFICE

COMBINED DECLARATION AND POWER OF ATTORNEY(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,
CONTINUATION, OR C-I-P)

As a below named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type:

(check one applicable item below)

- original.
 design.

NOTE: *With the exception of a supplemental oath or declaration submitted in a reissue, a supplemental oath or declaration is not treated as an amendment under 37 CFR 1.312 (Amendments after allowance). M.P.E.P. Section 714.16, 7th Ed.*

- supplemental.

NOTE: *If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application, do not check next item; check appropriate one of last three items.*

- national stage of PCT.

NOTE: *If one of the following 3 items apply, then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR C-I-P.*

NOTE: *See 37 C.F.R. Section 1.63(d) (continued prosecution application) for use of a prior nonprovisional application declaration in the continuation or divisional application being filed on behalf of the same or fewer of the inventors named in the prior application.*

- divisional.
 continuation.

NOTE: *Where an application discloses and claims subject matter not disclosed in the prior application, or a continuation or divisional application names an inventor not named in the prior application, a continuation-in-part application must be filed under 37 C.F.R. Section 1.53(b) (application filing requirements-nonprovisional application).*

- continuation-in-part (C-I-P).

INVENTORSHIP IDENTIFICATION

WARNING: *If the inventors are each not the inventors of all the claims, an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.*

My residence, post office address and citizenship are as stated below, next to my name. I believe that I am the original, first and sole inventor (*if only one name is listed below*) or an original, first and joint inventor (*if plural names are listed below*) of the subject matter that is claimed, and for which a patent is sought on the invention entitled:

TITLE OF INVENTION

VIBRATOR

SPECIFICATION IDENTIFICATION

The specification of which:

(*complete (a), (b), or (c)*)

(a) [] is attached hereto.

NOTE: *"The following combinations of information supplied in an oath or declaration filed on the application filing date with a specification are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. Section 1.63:*

"(1) name of inventor(s), and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration on filing;

"(2) name of inventor(s), and attorney docket number which was on the specification as filed; or

"(3) name of inventor(s), and title which was on the specification as filed."

Notice of July 13, 1995 (1177 O.G. 60).

(b) [X] was filed on February 25, 2002, [X] as Application No. _____
[] and was amended on _____ (if applicable).

NOTE: *Amendments filed after the original papers are deposited with the PTO that contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 C.F.R. Section 1.67.*

NOTE: *"The following combinations of information supplied in an oath or declaration filed after the filing date are acceptable as minimums for identifying a specification and compliance with any one of the items below will be accepted as complying with the identification requirement of 37 C.F.R. Section 1.63:*

(A) application number (consisting of the series code and the serial number, e.g., 08/123,456);

(B) serial number and filing date;

(C) attorney docket number which was on the specification as filed;

(D) title which was on the specification as filed and reference to an attached specification which is both attached to the oath or declaration at the time of execution and submitted with the oath or declaration; or

(E) title which was on the specification as filed and accompanied by a cover letter accurately identifying the application for which it was intended by either the application number (consisting of the series code and the serial number, e.g., 08/123,456), or serial number and filing date. Absent any statement(s) to the contrary, it will be presumed that the application filed in the PTO is the application which the inventor(s) executed by signing the oath or declaration.

M.P.E.P. § 601.01(a), 7th ed.

(c) [] was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____ (if any).

SUPPLEMENTAL DECLARATION (37 C.F.R. Section 1.67(b))

(complete the following where a supplemental declaration is being submitted)

[] I hereby declare that the subject matter of the

[] attached amendment
 [] amendment filed on _____.

was part of my/our invention and was invented before the filing date of the original application, above identified, for such invention.

ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to patentability as defined in 37, Code of Federal Regulations, Section 1.56,

(also check the following items, if desired)

[] and which is material to the examination of this application, namely, information where there is a substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, and

[] in compliance with this duty, there is attached an information disclosure statement, in accordance with 37 C.F.R. Section 1.98.

PRIORITY CLAIM (35 U.S.C. Section 119(a)-(d))

NOTE: 37 C.F.R. § 1.55 Claim for foreign priority.

"(a) An applicant in a nonprovisional application may claim the benefit of the filing date of one or more prior foreign applications under the conditions specified in 35 U.S.C. 119(a) through (d) and (f), 172, and 365(a) and (b).

(i) In an original application filed under 35 U.S.C. 111(a), the claim for priority must be presented during the pendency of the application, and within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. This time period is not extendable. The claim must identify the foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by specifying the application number, country (or intellectual property authority), day, month, and year of its filing. The time period in this paragraph does not apply to an application for a design patent.

(ii) In an application that entered the national stage from an international application after compliance with 35 U.S.C. 371, the claim for priority must be made during the pendency of the application and within the time limit set forth in the PCT and the Regulations under the PCT."

(2) The claim for priority and the certified copy of the foreign application specified in 35 U.S.C. 119(b) or PCT Rule 17 must, in any event, be filed before the patent is granted. If the claim for priority or the certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by the processing fee set forth in § 1.17(i), but the patent will not include the priority claim unless corrected by a certificate of correction under 35 U.S.C. 255 and § 1.323.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

(complete (d) or (e))

- (d) [] no such applications have been filed.
 (e) [] such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.

**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS
 (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION
 AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. SECTION 119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING DAY, MONTH, YEAR	PRIORITY CLAIMED UNDER 35 USC 119
			[] YES [] NO
			[] YES [] NO
			[] YES [] NO
			[] YES [] NO
			[] YES [] NO

**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)
 (35 U.S.C. Section 119(e))**

I hereby claim the benefit under Title 35, United States Code, Section 119(e) of any United States provisional application(s) listed below:

PROVISIONAL APPLICATION NUMBER
60 / 271,399
 _____ / _____
 _____ / _____

FILING DATE
February 26, 2001

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)
 UNDER 35 U.S.C. SECTION 120**

- [] The claim for the benefit of any such applications are set forth in the attached ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART (C-I-P) APPLICATION.

**ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

NOTE: *If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR C-I-P APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. Section 120.*

POWER OF ATTORNEY

I hereby appoint the following practitioner(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

(list name and registration number)

JOSEPH H. HANDELMAN, 26179	JULIAN H. COHEN, 20302
JOHN RICHARDS, 31053	WILLIAM R. EVANS 25858
RICHARD J. STREIT, 25765	JANET I. CORD, 33778
PETER D. GALLOWAY, 27885	CLIFFORD J. MASS, 30086
RICHARD P. BERG, 28145	CYNTHIA R. MILLER, 34678

(Check the following item, if applicable)

- [] I hereby appoint the practitioner(s) associated with the Customer Number provided below to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.
- [] Attached, as part of this declaration and power of attorney, is the authorization of the above-named practitioner(s) to accept and follow instructions from my representative(s).

NOTE: "Special care should be taken in continuation or divisional applications to ensure that any change of correspondence address in a prior application is reflected in the continuation or divisional application. For example, where a copy of the oath or declaration from the prior application is submitted for a continuation or divisional application filed under 37 CFR 1.53(b) and the copy of the oath or declaration from the prior application designates an old correspondence address, the Office may not recognize, in the continuation or divisional application, the change of correspondence address made during the prosecution of the prior application. Applicant is required to identify the change of correspondence address in the continuation or divisional application to ensure that communications from the Office are mailed to the current correspondence address. 37 CFR 1.63(d)(4)." Section 601.03, M.P.E.P., 7th Ed

SEND CORRESPONDENCE TO

Ladas & Parry
26 West 61st Street
New York, N.Y. 10023

DIRECT TELEPHONE CALLS TO:
(Name and telephone number)

PETER D. GALLOWAY
212-708-1905

(complete the following if applicable)

Since this filing is a [] continuation [] divisional there is attached hereto a Change of Correspondence Address so that there will be no question as to where the PTO should direct all correspondence.

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name, as it should appear on the filing receipt and all other document.

NOTE: Each inventor must be identified by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial, and by his/her residence, post office address and country of citizenship. 37 C.F.R. Section 1.63(a)(3).

NOTE: Inventors may execute separate declarations/oaths provided each declaration/oath sets forth all the inventors. Section 1.63(a)(3) requires that a declaration/oath, *inter alia*, identify each inventor and prohibits the execution of separate declarations/oaths which each sets forth only the name of the executing inventor. 62 Fed. Reg. 53,131, 53,142, October 10, 1997.

Full name of sole or first inventor

Fred
(Given Name)

(Middle Initial or Name)

Oswald
Family (Or Last Name)

Inventor's signature (x)

Fred Oswald

Date (x) 4/29/02

Country of Citizenship United States of America

Residence 27 Forest Drive, Sands Point, New York 11050

Post Office Address same as above

Full name of second joint inventor, if any

(Given Name)

(Middle Initial or Name)

Family (Or Last Name)

Inventor's signature _____

Date _____ Country of Citizenship _____

Residence _____

Post Office Address _____

Full name of third joint inventor, if any

(Given Name)

(Middle Initial or Name)

Family (Or Last Name)

Inventor's signature _____

Date _____ Country of Citizenship _____

Residence _____

Post Office Address _____

(check proper box(es) for any of the following added page(s)
that form a part of this declaration)

- [] **Signature** for fourth and subsequent joint inventors. *Number of pages added* _____

* * *

- [] **Signature** by administrator(trix), executor(trix) or legal representative for deceased or
incapacitated inventor. *Number of pages added* _____

* * *

- [] **Signature** for inventor who refuses to sign or cannot be reached by person authorized under
37 C.F.R. Section 1.47. *Number of pages added* _____

* * *

- [] Added page for **signature** by one joint inventor on behalf of deceased inventor(s) where legal
representative cannot be appointed in time. (37 C.F.R. Section 1.47)

* * *

- [] Added pages to combined declaration and power of attorney for divisional, continuation, or
continuation-in-part (C-I-P) application.

[] *Number of pages added* _____

* * *

- [] Authorization of practitioner(s) to accept and follow instructions from representative.

(If no further pages form a part of this Declaration,
then end this Declaration with this page and check the following item)

[x] This declaration ends with this page.

O P E Practitioner's Docket No. U 013886-1

PATENT

MAY 30 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT & TRADEMARK OFFICE
 In re application of: Fred OSWALD
 Application No.: 10/083,716
 Filed: February 25, 2002
 For: VIBRATOR

 Group No.:
 Examiner:

[] *Patent No.: Issue Date:

*NOTE: Insert name(s) of inventor(s) and title also for patent Where statement is with respect to a maintenance fee payment, also insert application number and filing date, and add Box M. Fee to address.

STATEMENT CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(c-f) and 1.27(b-d))

With respect to the invention described in

[] the specification filed herewith.
 [X] application no. 10/083,716, filed February 25, 2002.
 [] patent no. _____ issued _____.

I. IDENTIFICATION AND RIGHTS AS A SMALL ENTITY

I hereby state that I am

(complete either (a), (b), (c) or (d) below)

(a) Independent Inventor

[] a below named independent inventor, and that I qualify as an independent inventor, as defined in 37 CFR 1.9(c), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office.

(b) Noninventor Supporting a Claim by Another

[] making this statement to support a claim by

for a small entity status for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code. I hereby state that I would qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, if I had made the above identified invention.

(c) Small Business Concern

[X] the owner of the small business concern identified below:

check one → [] an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Concern (x)

Address of Concern (x)

and

that the above identified small business concern qualifies as a small business concern, as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

(d) Non-Profit Organization

an official empowered to act on behalf of the nonprofit organization identified below:

Name of Organization _____

Address of Organization _____

TYPE OF ORGANIZATION

University or Other Institution of Higher Education

Tax Exempt Under Internal Revenue Service Code (26 USC 501(a) and 501(c) (3))

Nonprofit Scientific or Educational Under Statute of State of the United States of America

(Name of State _____)

(Citation of Statute _____)

Would Qualify as Tax Exempt Under Internal Revenue Service Code (26 USC 501(a) and 501(c) (3)), if Located in the United States of America

Would Qualify as Nonprofit Scientific or Educational Under Statute of State of the United States of America, if Located in the United States of America

(Name of State _____)

(Citation of Statute _____)

and that the nonprofit organization identified above qualifies as a nonprofit organization, as defined in 37 CFR 1.9(e), for purposes of paying reduced fees under Sections 41(a) and (b) of Title 35, United States Code.

II. OWNERSHIP OF INVENTION BY DECLARANT

I hereby state that rights under contract or law remain with and/or have been conveyed to the above identified

person
(item (a) or (b) above)

concern
(item (c) above)

organization
(item (d) above)

EXCEPT, that if the rights held are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held (1) by any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, (2) any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or (3) a nonprofit organization under 37 CFR 1.9(e).

- no such person, concern, or organization
 person, concerns or organizations listed below*

*NOTE: Separate statements are required from each named person, concern or organization having rights to the invention as to their status as small entities. (37 CFR 1.27)

Full Name _____
 Address _____
 INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

Full Name _____
 Address _____
 INDIVIDUAL SMALL BUSINESS CONCERN NONPROFIT ORGANIZATION

III. ACKNOWLEDGEMENT OF DUTY TO NOTIFY PTO OF STATUS CHANGE

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

IV. DECLARATION

(check the following item, if desired)

NOTE: The following verification statement need not be made in accordance with the rules published on October 10, 1997, 62 Fed. Reg. 52131, effective December 1, 1997.

NOTE: "The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any paper by a party, whether a practitioner or non-practitioner, constitutes a certification under § 10.18(b) of this chapter. Violations of § 10.18(b)(2) of this chapter by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under § 10.18(c) of this chapter. Any practitioner violating § 10.18(b) may also be subject to disciplinary action. See §§ 10.18(d) and 10.23(c)(15)." 37 CFR 1.4(d)(2).

- I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

V. SIGNATURES

(complete only (e) or (f) below)

(e)

NOTE: All inventors must sign the statement.

Name of Inventor

Date: _____

Signature of Inventor

Name of Inventor

Date: _____

Signature of Inventor

Name of Inventor

Date: _____

Signature of Inventor

(add lines for any additional inventors who must sign)

or

(f)

NOTE: The title of the person signing on behalf of a concern or nonprofit organization should be specified.

Name of Person Signing Fred OswaldTitle of Person President,

(if signing on behalf of a concern or non-profit organization)

Address of Person Signing 65 Channel DrPort Washington NY 11050SIGNATURE Fred Oswald DATE 4/29/02

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **FRED OSWALD**

Serial No.: _____ Group No.: _____

Filed: _____ Examiner: _____

For: **VIBRATOR**

Attorney Docket No.: **U 013886-1**

Assistant Commissioner for Patents
Washington, D.C. 20231

WRITTEN ASSERTION OF SMALL ENTITY STATUS

This is written assertion on the basis of:

- personal knowledge;
 applicant's letter of _____;
 applicant's agent's letter of _____; or
 other _____

by a practitioner (not necessarily of record) that the above application is entitled to small entity status and, therefore, fees.

CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10*

*(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)*

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

- deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

37 C.F.R. 1.8(a)

- with sufficient postage as first class mail.

37 C.F.R. 1.10*

as "Express Mail Post Office to Address"
Mailing Label No. US 011020774 US
(mandatory)

TRANSMISSION

- transmitted by facsimile to the Patent and Trademark Office.

Date: February 25, 2002

Signature

Connie Yannotti

(type or print name of person certifying)

***WARNING:** *Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).*

"Since the filing of correspondence under § 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

EXPRESS MAIL LABEL

NO.: EV 011020774 US

NOTE: "To establish small entity status after the payment of the basic filing or national stage fee as a non-small entity, a written assertion of small entity status is required to be submitted." Notice of September 8, 2000, 65 Fed. Reg. 54604, at 54609.

NOTE: 37 C.F.R. § 1.27(c)(1): "Assertion by writing. Small entity status may be established by a written assertion of entitlement to small entity status. A written assertion must:

- (i) Be clearly identifiable;
- (ii) Be signed (see paragraph (c)(2) of this section); and
- (iii) Convey the concept of entitlement to small entity status, such as by stating that applicant is a small entity, or that small entity status is entitled to be asserted for the application or patent. While no specific words or wording are required to assert small entity status, the intent to assert small entity status must be clearly indicated in order to comply with the assertion requirement."

NOTE: 37 C.F.R. § 1.27(c)(2): "Parties who can sign and file the written assertion. The written assertion can be signed by:

- (i) One of the parties identified in § 1.33(b) (e.g. an attorney or agent registered with the Office). § 3.73(b) of this chapter notwithstanding, who can also file the written assertion;
- (ii) At least one of the individuals identified as an inventor (even though a § 1.63 executed oath or declaration has not been submitted), notwithstanding § 1.33(b)(4), who can also file the written assertion pursuant to the exception under § 1.33(b) of this part; or
- (iii) An assignee of an undivided part interest, notwithstanding §§ 1.33(b)(3) and 3.73(b) of this chapter, but the partial assignee cannot file the assertion without resort to a party identified under § 1.33(b) of this part."

35 C.F.R. § 1.33(b):

- (b) Amendment and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
 - (1) A registered attorney or agent of record appointed in compliance with § 1.34(b);
 - (2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);
 - (3) An assignee as provided for under § 3.71(b) of this chapter; or
 - (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Respectfully submitted,



SIGNATURE OF PRACTITIONER

Reg. No. 27,885

PETER D. GALLOWAY
(type or print name of practitioner)

Tel. No.: (212)708-1905

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